

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION

Joan A. Castagno,

Plaintiff,

v.

Pinewood Preparatory School,

Defendant.

Civil Action No. 2:21-cv-01316-DCN

NOTICE OF REMOVAL

Pursuant to 28 U.S.C. §§ 1331, 1441(a), and 1446, the Defendant, Pinewood Preparatory School, through its undersigned counsel, hereby files this Notice of Removal of the instant action (Civil Action No. 2021-CP-18-00591) from the Court of Common Pleas for Dorchester County, South Carolina, to the United States District Court for the District of South Carolina, Charleston Division. The Defendant generally denies the allegations contained in the Complaint and liability for the damages alleged and files this notice without waiving any defenses, claims, exceptions, or obligations that may exist in its favor in state or federal court.

This action is within the original subject matter jurisdiction of the United States District Court pursuant to 28 U.S.C. § 1331. That section vests federal district courts with original jurisdiction over civil actions arising under the Constitution, laws, or treaties of the United States. As discussed more fully below, this action falls within the statutory requirements.

As grounds for removal, the Defendant states as follows:

1. The above-entitled action was instituted by the Plaintiff against the Defendant by the filing of a Summons and Complaint on March 30, 2021. This action is now pending in the Court of Common Pleas for Dorchester County, South Carolina, being Civil Action No. 2021-CP-18-00591. The Defendant was served on April 6, 2021. Thus, pursuant to 28 U.S.C. §

1446(b), this Notice of Removal is timely filed within thirty days of the service of the state court pleadings upon the Defendant. See generally, e.g., Murphy Brothers, Inc. v. Michetti Pipe Stringing, Inc., 526 U.S. 344 (1999) (holding that the thirty day removal period begins to run when the defendant is formally served with the state court summons and complaint).

2. This court has original jurisdiction pursuant to 28 U.S.C. § 1331 based on the Complaint's assertion of a cause of action arising under the laws of the United States, specifically the Fair Labor Standards Act of 1938, 29 U.S.C. §§ 201 et seq. See Compl. ¶¶ 20-25.

3. True and correct copies of the Summons and Complaint—which are all of the process, pleadings, and orders served upon the Defendant—are attached hereto as Exhibit A.

4. Pursuant to 28 U.S.C. § 1446(d), written notice of this removal is being served on Plaintiff's counsel and will be filed with the Court of Common Pleas for Dorchester County, South Carolina.

5. In the event any question arises as to the propriety of the removal of this matter, the Defendant requests the opportunity to present briefs, oral argument, and, if necessary, affidavits and other evidence in support of its position that removal is proper.

WHEREFORE, the Defendant, Pinewood Preparatory School, hereby removes this matter from the Court of Common Pleas for Dorchester County, South Carolina, to the United States District Court for the District of South Carolina, Charleston Division, based on 28 U.S.C. §§ 1331, 1441(a), and 1446. The Defendant respectfully requests that this court assume jurisdiction over this case and issue such further orders as it deems necessary or appropriate.

s/Curtis W. Dowling

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